



Paper No. 3

James M. Duncan
P.O. Box 11172
Bakersfield, CA 93389-1172

COPY MAILED

JUN 18 2002

In re Application of
Stetson-Buck
Application No. 10/067,316
Filed: February 7, 2002
Attorney Docket No. STET-01-001

OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition filed, March 7, 2002, under 37 CFR 1.10(e) to accord the above-identified application a filing date of November 19, 2001, instead of the presently accorded filing date of February 7, 2002. This petition is being treated as a submission under 37 CFR 1.6(e).

The petition is **Granted**.

Petitioner attempted to deposit the application in "Express Mail" service with the U.S. Postal Service (USPS), on November 19, 2001. Unfortunately, on November 16, 2001, the USPS issued a memorandum temporarily and immediately suspending Express Mail service to Washington, D.C. zip codes 202xx through 205xx. The United States Patent and Trademark Office (USPTO) designated this interruption in USPS Express Mail service as a postal service interruption within the meaning of 35 USC 21(a) and 37 CFR 1.6(e).

The petition filed on March 7, 2002, states that the application was deposited in Express Mail service on November 19, 2001 and, but for the designated interruption in the USPS, would have been accorded that date as the "date-in." Under 37 CFR 1.10(a), correspondence received by the USPTO that was delivered by the "Express Mail Post Office to Addressee" service of the USPS is considered filed in the Office on the date of deposit with the USPS shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation.

In support of the petition, petitioner has supplied a statement from James M. Duncan stating the Express Mail package was refused on November 19, 2001 and was subsequently mailed first class mail on November 20, 2001. The petition is accompanied by a copy of the Express Mail label which has a stamp indicating service was temporarily suspended. Petitioner has also included a USPS routing slip addressed to petitioner indicating Express Mail service to 202xx through 205xx zip codes was suspended but first class mail to the indicated zip codes was being accepted.

The USPTO published a notice in the Official Gazette on October 9, 2001 that provides guidance in situations like this one, when deposit in Express Mail is refused due to suspension. See United States Postal Service Interruption and Emergency, 12251 Off. Gaz. Pat. Office 55 (Oct 9, 2001).

It is concluded that the present application would have been filed on November 19, 2001, if it were not for the designated interruption in the USPS.

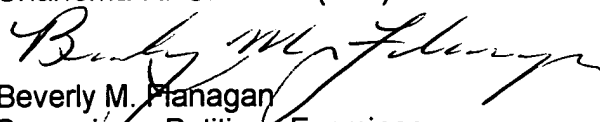
Accordingly, the application will be accorded a filing date of November 19, 2001.

No petition fee is required.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 19, 2001.

The change of address submitted with the instant petition has been entered.

Telephone inquiries specific to this matter should be directed to the Petitions Attorney Charlema R. Grant at (703) 306-0251.


Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy